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UNITED STATES OF AMERICA

# NOTICE TO MARINERS



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## **(65) U.S. ECONOMIC SANCTIONS: CONCERNS FOR MARINERS**

The Office of Foreign Assets Control ("OFAC") of the U.S. Treasury Department administers a wide range of sanctions programs involving Cuba, North Korea, Libya, Iraq, Iran, Sudan, the Government of the Federal Republic of Yugoslavia (Serbia & Montenegro) and the Government and territory of the Republic of Serbia, the UNITA faction and its controlled territory in Angola, the Taliban and its controlled territory in Afghanistan, transactions with designated terrorists, narcotics traffickers and foreign terrorist organizations, importation from foreign persons involved in the proliferation of weapons of mass destruction, new investment in Burma (Myanmar), and the receipt of certain funds from the Government of Syria. Many of these programs significantly impact mariners.

### **GENERAL CONCERNS FOR MARINERS:**

U.S.-registered vessels and other vessels subject to U.S. jurisdiction, U.S. individuals (citizens or residents wherever located, and individuals located in the United States) and U.S. businesses (including their foreign branches and foreign firms' U.S. locations) are generally prohibited from providing maritime transportation, vessel chartering, brokerage services, marine insurance, reinsurance services involving:

- C shipments of goods where the country of origin is a sanctions target;
- C shipments of goods or carriage of passengers to or from sanctioned countries;
- C the carriage of passengers who are nationals of Cuba or North Korea;
- C shipments of goods in which there is an interest of the government or a Specially Designated National of a country subject to sanctions or, in the case of Cuba and North Korea, an interest of any of their nationals;
- C waterborne transportation services to unapproved locations in Angola;
- C the purchase of services or bunkering at ports located within the territory of most countries subject to U.S. sanctions.

It is important to note that U.S. sanctions programs vary considerably and what is prohibited with regard to one country may be permitted or licensable with regard to another.

### **GENERAL TRADE RESTRICTIONS BY COUNTRY:**

The following summary provides a broad overview of trade sanctions administered by OFAC. In exceptional cases, where it is found consistent with U.S. policy, licenses to engage in an otherwise prohibited transaction may be granted by OFAC. In certain cases, licenses from the U.S. Department of Commerce or another federal agency must also be obtained. Because sanctions programs are quite dynamic, you should check with OFAC and the Executive orders and regulations governing a particular sanctions program for specific aspects of, or changes to, the restrictions summarized below.

- C **CUBA** - No exportation or reexportation of goods, services, or technology to Cuba, except food, medicine, medical equipment, or agricultural commodities licensed by the U.S. Department of Commerce; no importation of goods or services from Cuba; no dealing in Cuban-origin goods or in property in which the Government of Cuba or a Cuban national has an interest; no brokering of Cuban trade contracts; no use, brokering, or insuring of Cuban-owned vessels. No vessel that enters a Cuban port to engage in the trade of goods or the purchase of services may enter a U.S. port to load or unload freight for a period of 180 days following departure from Cuba. No vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest

may enter a U.S. port with such goods or passengers on board. Travel-related transactions in Cuba require an OFAC license.

- C NORTH KOREA** - No exportation or reexportation of goods, services, or technology to North Korea, except goods and technology licensed by the U.S. Department of Commerce; no importation of goods or services from North Korea; no dealing in North Korean-origin goods or in property in which the Government of North Korea or a North Korean national has an interest; no brokering of North Korean trade contracts; no use, brokering, or insuring of North Korean-owned vessels.
- C LIBYA** - No exportation of goods, services, or technology to Libya, except agricultural commodities and products, medicine, or medical equipment licensed by OFAC; no importation of goods or services from Libya; no dealing in Libyan-origin goods for export to another country or in property in which the Government of Libya has an interest; no brokering of Libyan trade contracts. Travel and transportation-related transactions to, from, and in Libya require an OFAC license.
- C IRAN** - No exportation or reexportation of goods, services, or technology to Iran, except agricultural commodities and products, medicine, or medical equipment licensed by OFAC (general or specific license); no importation of goods or services from Iran; no dealing in Iranian-origin goods; no facilitation of foreign nationals' transactions with Iran; no brokering of Iranian trade contracts.
- C IRAQ** - No exportation or reexportation of goods, services, or technology to Iraq; no importation of goods or services from Iraq; no dealing in Iraqi-origin goods or in property in which the Government of Iraq has an interest; no brokering of Iraqi trade contracts; no transfers to persons in Iraq; participation in UN "Oil for Food Program" involving purchases of oil and sales of food and medicine requires an OFAC license. Travel and transportation-related transactions to, from, and in Iraq require an OFAC license.
- C SUDAN** - No exportation or reexportation of goods, services, or technology to Sudan, except agricultural commodities and products, medicine, or medical equipment licensed by OFAC; no importation of goods or services from Sudan; no dealing in Sudanese-origin goods or in property in which the Government of Sudan has an interest; no facilitation of foreign nationals' transactions with Sudan; no brokering of Sudanese trade contracts.
- C FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA & MONTENEGRO) AND THE REPUBLIC OF SERBIA** - No exportation or importation of goods, services, or technology to or from the Republic of Serbia or the Governments of the Federal Republic of Yugoslavia (Serbia & Montenegro) and the Republic of Serbia, except agricultural commodities and products, medicine, or medical equipment licensed by the U.S. Department of Commerce; no dealings in property in which the Government of the Federal Republic of Yugoslavia (Serbia & Montenegro) or of the Republic of Serbia has an interest; no brokering of trade contracts. OFAC general licenses exist for most trade with the Government and Republic of Montenegro and with the province of Kosovo.

- C** **ANGOLA (UNITA)** - No exportation of arms, arms materiel, petroleum, petroleum products, aircraft, or aircraft components, mining equipment, motorized vehicles, watercraft, spare parts for motorized vehicles or watercraft, mining services, or ground or waterborne transportation services to UNITA or unapproved locations in Angola; no dealings in property in which UNITA has an interest; no importation of uncertified diamonds from Angola.
- C** **AFGHANISTAN (Taliban)** - No importation or exportation of goods or services to or from the Taliban or to or from areas of Afghanistan controlled by the Taliban, unless authorized by OFAC; no dealing in goods in which the Taliban has an interest.
- C** **BURMA (Myanmar)** - No new investments in Burma; most trade in goods, services, and technology is exempt.
- C** **SYRIA** - No receipt of unlicensed donations from the Government of Syria by U.S. persons; no financial transaction in which a U.S. person knows or has reasonable cause to believe there is a risk of furthering terrorist acts in the United States; normal commercial transactions not affected.
- C** **TERRORISTS AND NARCOTIC TRAFFICKERS** - No dealings in property in which a Specially Designated Terrorist or Specially Designated Narcotics Trafficker has an interest; no financial, logistical, or other support for a Specially Designated Terrorist or Narcotics Trafficker.
- C** **WEAPONS OF MASS DESTRUCTION** - No importation of goods, technology, or services produced or provided by foreign persons designated by Secretary of State for having promoted the proliferation of weapons of mass destruction.

#### **OFAC JURISDICTION:**

All U.S. citizens and permanent residents, companies organized in the United States, foreign branches of U.S. companies, individuals and entities located in the United States (including domestic affiliates of foreign companies), are subject to OFAC regulations. Furthermore, foreign subsidiaries of U.S. companies must comply with the sanctions against Cuba and North Korea. Such persons may not facilitate or assist foreign companies (e.g., as financiers, brokers, or other intermediaries) with transactions in which they themselves could not participate directly, and U.S. employees of foreign companies must ensure that they do not engage in transactions on behalf of their employer which would be prohibited if the company was American. Specifically pertaining to mariners, vessels subject to U.S. jurisdiction include:

- C** U.S. flag vessels;
- C** vessels owned or controlled by U.S. companies;
- C** vessels within U.S. waters;
- C** for sanctions against Cuba and North Korea, vessels owned or controlled by foreign subsidiaries of U.S. companies.

#### **SPECIALLY DESIGNATED NATIONALS:**

U.S. sanctions programs go far beyond the borders of target countries. The U.S. Government has identified and listed thousands of front organizations and individuals known as “Specially Designated Nationals,” or

SDNs, to further the effectiveness of the sanctions regimes. SDNs are individuals and entities located anywhere in the world that are owned or controlled by, or acting for or on behalf of, the Government of a sanctioned country, as well as designated international narcotics traffickers and terrorists targeted by the United States Government. The list also includes the names of vessels that have been determined to be owned or controlled by the targeted countries. These vessels, companies, individuals, and banks may not appear to be related to the sanctions targets they actually represent. Many of these SDNs have innocuous names and are located in countries with which the United States enjoys harmonious trade relations, which is why it is important to carefully screen all parties involved in trade transactions using OFAC's SDN list. All property and interests in property of SDNs that come into the possession of a U.S. corporation must be blocked.

### **SANCTIONS VIOLATIONS-THE PENALTIES:**

Potential civil and criminal penalties, as well as the associated negative publicity resulting from a company's violation of U.S. sanctions, can prove to be strong motivational factors in getting a company to devote the appropriate time and resources to implementing quality OFAC compliance procedures. Civil penalties range from \$11,000 to \$275,000 per violative transaction; criminal violations of the statutes administered by OFAC can result in corporate and personal fines of up to \$1 million and 12 years in jail. Vessels involved in trade contrary to the sanctions regulations may be subject to seizure and forfeiture.

### **OFAC LICENSING:**

OFAC has the authority to authorize transactions that would otherwise be prohibited under specific sanctions provisions. OFAC's Licensing Division reviews all license applications on a first-in, first-out, case-by-case basis and issues or denies licenses based on U.S. foreign policy and national security goals. Filing a complete application will expedite processing, but there are no guarantees that a license will be issued just because one is requested. The OFAC Licensing Division can be reached at (202) 622-2480 by telephone and (202) 622-1657 by fax for further licensing information, applications, or about the status of a pending application.

### **KEEPING CURRENT ON OFAC SANCTIONS PROGRAMS:**

All of OFAC's public information documents are updated whenever there is a change to an existing program, or when a new program is announced. Although OFAC does not maintain a mailing list, a one time "starter kit" of essential OFAC information can be sent to a company when it is in the initial stages of developing or incorporating OFAC compliance procedures into its existing export controls. It is strongly recommended that you stay current on OFAC sanctions programs by utilizing some of the following user-friendly electronic resources:

- C World Wide Web (WWW) Home Page on the Internet** - All of OFAC's program "brochures," as well as SDN information, are available free in downloadable camera-ready Adobe Acrobat® ".PDF" format over the Treasury Department's World Wide Web Server. At the top of the home page, the date of OFAC's last change is displayed and a "What's New" file summarizes the latest sanctions developments. Access is also provided to statutes, United Nations resolutions, Executive Orders, actual *Federal Register* notices, and the entire *Code of Federal Regulations* dealing with OFAC. OFAC's Home Page site is <<<http://www.treas.gov/ofac>>>.

- C OFAC Fax-on-demand Service** - OFAC operates a free automated fax-on-demand service, which can be accessed 24 hours a day, seven days a week, by dialing 202/622-0077 from any touch tone phone and following voice prompts. The Index lists all of the documents OFAC makes available by fax, and indicates the date each document was last updated.
  
- C U.S. Maritime Administration's Marlinespike Bulletin Board System** - The U.S. Maritime Administration's Web site at <<<http://marad.dot.gov>>> contains a special link to OFAC's brochures and information, including a flashing indicator of latest updates.
  
- C U.S. Government Printing Office's The Federal Bulletin Board** - The U.S. Government Printing Office operates a free bulletin board called "The Federal Bulletin Board" which can be accessed 24 hours a day, 7 days per week, by direct dialing 202/512-1387 from a modem using any communications software or using the Internet to connect to <<[fedbbs.access.gpo.gov](http://fedbbs.access.gpo.gov)>>.
  
- C U.S. Commerce's National Trade Data Bank (NTDB)** - The U.S. Department of Commerce operates a CD-Rom service providing a massive amount of international trade information on a monthly basis to small and medium sized companies. There is a nominal charge for a subscription. The CD-Rom service is also available free of charge at Commerce offices nationwide as well as nearly 1,000 Federal depository libraries. OFAC data is in fully searchable ASCII format. For information, call 202/482-1986.
  
- C U.S. Customs Service's Customs Electronic Bulletin Board** - The U.S. Customs Service maintains a free Customs Electronic Bulletin Board geared especially toward Customs House Brokers. OFAC's information is available as a date-specific self-extracting DOS file ("OFAC\*.EXE" in File Area #15, "Customs Extra!"). Modem access is at 703/440-6155 with voice system support at 703/440-6236.

### **QUESTIONS-THE OFAC COMPLIANCE HOTLINE:**

If you have any questions regarding OFAC-administered sanctions programs, call OFAC's Compliance Hotline at (202) 622-2490 on weekdays from 7:30 a.m. to 7:00 p.m. eastern time. OFAC also has a Miami branch office with a special bi-lingual hotline relating to information on the Cuban embargo which can be reached by telephone at (305) 810-5170.

**NOTE:** *This overview is meant to alert mariners to potential issues arising under U.S. sanctions and does not have the force of law. Reference should be made to the controlling legal authorities to determine the applicability of specific prohibitions, exceptions, and licensing provisions. The regulations governing OFAC sanctions programs are found in chapter V of title 31, Code of Federal Regulations. Prior to the issuance of regulations, a new OFAC sanctions program is governed by the relevant Presidential Executive order imposing sanctions and delegating implementation authority to the Secretary of the Treasury.*